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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/725,071	12/01/2003	Peter J. Myers	20014/38779-A	2761

34431 7590 11/08/2005  
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EXAMINER

CONLEY, FREDRICK C

ART UNIT PAPER NUMBER

3673

DATE MAILED: 11/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/725,071

Applicant(s)

MYERS ET AL.

Examiner

FREDRICK C. CONLEY

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-48 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-19, 24-26 and 36-42 is/are allowed.
- 6) ☒ Claim(s) 20-22, 27-29 and 43-45 is/are rejected.
- 7) ☒ Claim(s) 23 and 30-35 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner. .
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>7/27/05 1/10/05</u>   | 6) <input type="checkbox"/> Other: _____                                    |

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 20-22 and 27-29 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 5,930,854 to O'Neill et al.

Claim 20, an apparatus comprising:

a mat 12 including a ring 8 and accommodation region 7,

a plurality of connectors 16 coupled to the mat capable of being folded in a first position within a perimeter of the mat and a second unfolded position outside the perimeter of the mat; and

a play gym 6 to be removably coupled to the connectors to suspend an object above the mat.

Claim 21, wherein the mat comprises a padded base 14. A board is defined as a flat piece of material thus the base of O'Neill meets the Applicant's claimed limitation.

Claim 22, wherein the loop connectors 16 are pivotal about a vertical axis that is coupled to the mat.

Claim 27, O'Neill discloses a floor board;

a mat 12; and

a connector 16 coupled to the mat capable of being folded into a first position within a perimeter of the mat and a second unfolded position outside the perimeter of the mat. A

Art Unit: 3673

play yard is defined as a portable enclosure in which a baby can be left to play and a bassinet is defined as a basket like bed. Therefore, the Examiner is interpreting the ring and cover of O'Neill as a play yard and bassinet.

Claim 28, wherein the connector is capable of being folded beneath a top surface of the mat when the connector is in the first position.

Claim 29, O'Neill discloses a play gym comprising:

a hub 20; and

at least two legs 6, each of the legs having a first end coupled to the hub and a second end dimensioned to be removably coupled to a play yard 8, and a floor mat 14 separate from a bassinet 12 and the play yard. A play yard is defined as a portable enclosure in which a baby can be left to play and a bassinet is defined as a basket like bed. Therefore, the Examiner is interpreting the ring and cover of O'Neill as a play yard and bassinet.

Claims 43-45 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No.4,750,509 to Kim

Claim 43, Kim discloses a method of collapsing a tent framework comprising:

moving a first leg 3 of the framework against a spring force out of an extended position to a first intermediate position;

pivoting the first leg of the framework from the first intermediate position to a second intermediate position; and moving the first leg of the framework with the spring force into a stored position (col. 3 lines 10-24). In response to applicant's recitation "playgym", a recitation of the intended use of the claimed invention must result in a structural

Art Unit: 3673

difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 370 F.2d 576, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 312 F.2d 937, 939, 136 USPQ 458, 459 (CCPA 1963).

Claim 44, further comprising moving a second leg of the framework against a spring force out of an extended position to a first intermediate position; pivoting the second leg of the framework from the first intermediate position to a second intermediate position, moving the second leg of the framework with the spring force into a stored position, moving a third leg of the framework against a spring force out of an extended position to a first intermediate position; pivoting the third leg of the framework from the first intermediate position to a second intermediate position; and moving the third leg of the play gym with the spring force into a stored position.

Claim 45, wherein the first, second, and third legs are substantially parallel when the first, second, and third legs are positioned in the stored position.

Art Unit: 3673

***Allowable Subject Matter***

Claims 1-19, 24-26, and 36-42 are allowed.

Claims 23-and 30-35 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

Applicant's arguments filed 7/27/05 have been fully considered but they are not persuasive.

With regards to the Applicant's argument, as stated under 37 CFR 1.97, 1.98 and MPEP § 609 each publication listed in an information disclosure statement must be identified by **publisher**, author (if any), title, relevant pages of the publication, **date**, and place of publication therefore references C01 and C02 have not been considered as to the merits.

Applicant's arguments with respect to Oren have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FREDRICK C. CONLEY whose telephone number is 571-272-7040. The examiner can normally be reached on M-TH.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, HEATHER SHACKELFORD can be reached on 571-272-7049. The fax

Art Unit: 3673

phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

FC



**JONG-SUK (JAMES) LEE**  
**PRIMARY EXAMINER**